**FARAD CONTINUATION SHEET NO.**
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**APPELLATE SIDE**
**NAGPUR BENCH, NAGPUR**

First Appeal No. 52/2007

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| Appeal | District : |
| Application No. | of 200 |
| Writ petition | |

| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders |
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**CORAM : Smt. V. A. Naik, J.**
**DATED : February 28, 2007.**

Heard Shri Kale, A.G.P. for the appellant, and Shri P.B. Patil, for the respondents.

By this appeal, the appellant challenges the judgment passed by the reference Court on 17/9/2003 in Land Acquisition Case No. 61/92 enhancing the compensation payable to the respondents/claimants.

The land belonging to the respondents admeasuring 1 H & 1 R was acquired by the appellant/State for the purpose of construction of submergence area of Torna Tank. Section 4 notification was issued on 5/7/1990. Section 6 notification was published on 25/7/1991.

The respondents claimed compensation @ Rs. 60,000/- per acre for the acquired field. The respondents further claimed compensation to the tune of Rs. 80,000/- for the well and Rs. 10,000/- towards the trees standing on the acquired land.

The Land Acquisition Officer granted compensation @ Rs. 6,000/- per acre and awarded Rs. 41,337/- for the well. The Land Acquisition Officer further granted Rs. 3,600/- for the trees.

The respondents challenged the Award passed by the Land Acquisition Officer by filing a reference application before the Collector, who in turn, referred the matter to the Civil Judge, Senior Division, Buldhana. The case was registered as the Land Acquisition Case No. 61/92. The respondents claimed compensation @ Rs. 60,000/- per acre for the acquired land. The reference Court, however, granted compensation to the respondent @ Rs. 30,000/- per hectare. The appellant/State has challenged the aforesaid judgment in this first appeal.

On perusal of the judgment passed by the reference Court and the record, it appears that the claimants had tendered the evidence before the reference Court to show that the yearly income from the acquired property was Rs. 15,000/- to Rs. 20,000/- per acre. The claimants had further deposed that the acquired land was a fertile one and there was permanent source of water in the acquired field. The reference Court also considered the evidence to the effect that there was permanent irrigation facility on the land in question.

The claimants examined Baban Gobra and

the State did not examine any witness in defence. It was deposed by the witness Baban that the compensation granted by the Land Acquisition Officer was inadequate. The claimants had filed certified copy of Index Register at Exh. 47 to demonstrate that the market value of the land was Rs. 60,000/- per acre at the relevant time. The respondent no.1 further produced electricity bills on record at Exh. 52 to 65, certified copies of receipt at Exhs. 48 to 51, copies of sale purchase receipts of cotton at Exh. 66 & 67.

From the oral and the documentary evidence produced by the respondents on record, it was substantiated that the respondents were taking the crops of wheat and gram from the acquired field. Though the respondents had placed certified copies of certain sale purchase transactions on record, which could have been helpful to grant compensation to the respondent @ Rs. 30,000/- per hectare, the reference Court rejected the sale transactions on the ground that the respondent had not examined sellers and purchasers of the said transactions. The reference Court, therefore, considered the sale instance at Exh. 47 to be a safe guide for computing the compensation amount payable to the respondents. The Court considered that the land had great potential value and the land was fertile land and the sales of the lands in the

nearby vicinity clearly showed that the market value of the acquired land was not less than Rs. 30,000/- per hectare. After considering the aforesaid evidence on record, the reference Court enhanced the compensation by granting it @ Rs. 30,000/- per hectare in stead of Rs. 15,000/- per hectare.

The compensation amount payable to the respondents in view of the impugned judgment dated 17/9/2003 is extremely just and reasonable and the Civil Judge, Senior Division, Buldhana, after considering the principles laid down in the Land Acquisition Act, computed the compensation payable to the respondents. The judgment passed by the reference Court on 17/9/2003 is just and proper and calls for no interference in this first appeal.

The first appeal is, therefore, dismissed with no order as to costs.

**JUDGE**

RMP